REMARKS

This responds to the Office Action mailed on September 4, 2009.

Claims 1, 14 and 25 are amended, no claims are canceled or added in this response; as a result, claims 1, 4, 6-23, 25, 28 and 30-44 are now pending in this application.

§ 101 Rejection of the Claims

Claims 1, 4, 6-13 and 38-40 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. In particular, the Office Action stated that the claim 1 "identifies neither the apparatus performing the recited steps nor any transformation of underlying materials, and accordingly are directed to non-statutory subject matter." Applicant has amended claim 1 to positively recite execution of the method by one or more processors, thereby identifying apparatus to perform the recited elements of the method claim. Applicant respectfully submits that the amendment overcomes the rejection, and requests reconsideration and the withdrawal of the rejection under 35 U.S.C. § 101.

§ 103 Rejection of the Claims

Claims 1, 6-10, 13-15, 18-23, 25, 30-34, 37, 39 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flake et al (U.S. 5,832,451; hereinafter "Flake") in view of Gardener et al (U.S. Publication Number 2002/0178034; hereinafter "Gardener") and Goss et al (U.S. 6,493,447; hereinafter "Goss"). The determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence. *See Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37 (Fed.Cir. 2005). The legal conclusion that a claim is obvious within § 103(a) depends on at least four underlying factual issues set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966). The underlying factual issues set forth in *Graham* are as follows: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir.1988). To

establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested, by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) ; M.P.E.P. § 2143.03. "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) ; M.P.E.P. § 2143.03. As part of establishing a *prima facie* case of obviousness, the Examiner's analysis must show that some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.* To facilitate review, this analysis should be made explicit. *KSR Int'l v. Teleflex Inc., et al.*, 127 S.Ct. 1727; 167 L.Ed 2d 705; 82 USPQ2d 1385 (2007) (citing *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006)). Applicant respectfully submits that there exist differences between the claims and the cited combination, thus the claims are not obvious in view of the cited combination.

For example, claim 1 as amended recites "upon determining that a number of available travel counselors within the skill group associated with the task is above a predetermined threshold, routing the task to a travel counselor within the skill group for further processing the task, wherein the predetermined threshold is set to insure that one or more travel counselors are available to answer incoming phone requests. Claims 14 and 25 recite the same or similar elements. The Office Action correctly states that Flake and Gardener do not disclose determining that a number of available travel counselors within the skill group associated with the task is above a predetermined threshold, routing the task to a travel counselor within the skill group for further processing the task. However, the Office Action states that Goss teaches "determining that a number of available travel counselors within the skill group associated with the task is above a predetermined threshold, routing the task to a travel counselor within the skill group for further processing the task", using the interpretation that the "threshold is anything above zero." While Applicant believes that in light of the specification, the Office Action's interpretation of "predetermined threshold" is unreasonably broad, Applicant has clarified the claims to more particularly describe the inventive subject matter. Applicant respectfully submits that Goss does not disclose a non-zero threshold that is set to insure that one or more travel counselors are available to answer incoming phone requests. As a result, none of Flake, Gardener or Goss disclose each and every element of claims 1, 14 or 25. Therefore there are

differences between claims 1, 14 and 25 and the combination of Flake, Gardener and Goss. Thus claims 1, 14 and 25 are not obvious in view of the combination. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 1, 14 and 25.

Claims 6-10, 13 and 39 depend either directly or indirectly from claim 1; claims 15, 18-23 and 42 depend either directly or indirectly from claim 14; and claims 30-34, 37 and 43 depend either directly or indirectly from claim 25. These dependent claims are patentable over the combination of Flake, Gardener and Goss for at least the reasons argued above, and are also patentable in view of the additional elements which they provide to the patentable combination. If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious. MPEP § 2143.03.

Additionally, claims 39 recites "querying one or more database to identify unused travel documents" and further recites "presenting data regarding the unused travel documents on a report." Claims 42 and 43 recite the same or similar language. The Office Action states that Gardener, at paragraphs [0170]-[0174] discloses the recited language. Applicant respectfully disagrees with this interpretation of Gardener. Gardener discloses a "bill per use" or "pay as you go" system that combines the sales transaction with the usage transaction (see e.g., Abstract, paragraphs [0169], [0174]). In such a system, there are not "unused travel documents" as a traveler is only billed upon traveling a segment. Further, the cited portions of Gardener disclose that in previous systems, a user had to request a refund (see e.g., paragraph [0174]). Gardener discloses numerous advantages to the "bill per use" or "pay as you go" system. For example, as stated in the Abstract, the "the bill per use module eliminates the advanced issuance of an accountable and specific travel authorization." Thus Gardener in fact teaches away from a system that queries "one or more database to identify unused travel documents" as recited in the claims. As a result, claims 39, 42 and 43 recite elements not found in Flake, Gardener or Goss. Therefore claims 39, 42 and 43 are not obvious in view of the combination of Flake with Gardener and Goss. Applicant respectfully request reconsideration and the withdrawal of the rejection of claims 39, 42 and 43.

Claims 4 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flake in view of Gardener and Goss as applied to claim 1 above, and further in view of Bull et al (U.S. 5,995,943; hereinafter "Bull").

Claims 11, 35, 38 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flake in view of Gardener and Goss as applied to claim 1 above, and further in view of Iyengar et al (U.S. 6,360,205; hereinafter "Iyengar").

Claims 12 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flake in view of Gardener and Goss as applied to claim 1 above, and further in view of Harris et al (U.S. Publication Number 2002/0108109; hereinafter "Harris").

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flake in view of Gardener and Goss as applied to claim 1 above, and further in view of Lynch et al (U.S. 6,119,094; hereinafter "Lynch").

Claims 40 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flake in view of Gardener and Goss as applied to claim 1 above, and further in view of Official Notice.

Each of claims 4, 11, 12, 16, 17, 28, 35-36, 38, 40 and 44 depend either directly or indirectly from claims 1, 14 or 25. Thus these dependent claims inherit the elements of the respective base claims, including elements discussed above related to determining that a number of available travel counselors within the skill group associated with the task is above a predetermined threshold, routing the task to a travel counselor within the skill group for further processing the task, wherein the predetermined threshold is set to insure that one or more travel counselors are available to answer incoming phone requests. As discussed above, Flake, Gardener and Goss fail to teach or suggest the above-mentioned elements. In addition, Applicant has reviewed Bull, Iyengar, Harris and Lynch and can find no teaching or suggestion of determining that a number of available travel counselors within the skill group associated with the task is above a predetermined threshold, routing the task to a travel counselor within the skill group for further processing the task, wherein the predetermined threshold is set to insure that one or more travel counselors are available to answer incoming phone requests. As a result, the combination of Flake, Gardener and Goss with any of Bull, Iyengar, Harris and Lynch does not teach or suggest each and every element of claims 4, 11, 12, 16, 17, 28, 35-36, 38, 40 and 44. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 4, 11, 12, 16, 17, 28, 35-36, 38, 40 and 44.

Additionally, with respect to claims 40 and 44, the Office Action took Official Notice "that it is old and well known in the art at the time of the invention to select a payment account

in accordance with the mode of travel." MPEP 2144.03 states that "Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known." Applicant notes that the present application claims priority to a provisional application with a filing date of June 20, 2000. Therefore Applicant respectfully submits that it is far from certain in view of the nearly ten years that have passed since the filing of the provisional application that the facts asserted in the Official Nortice "are capable of instant and unquestionable demonstration as being well-known" as of the effective filing date of the provisional application. Therefore Applicant respectfully traverses this official notice and requests the Examiner to provide a reference that describes such an element. Absent a reference, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2).

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402--0938
(612) 373-6954

Date March 4th ,2010

By _____
Rodney L. Lacy
Reg. No. 41,136

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 4th day of March, 2010.

Ryan Saunders
Name

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Signature